

## ECONOMIC DEVELOPMENT AUTHORITY[261]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 15.106A, the Economic Development Authority gives Notice of Intended Action to amend Chapter 65, “Brownfield and Grayfield Redevelopment,” Iowa Administrative Code.

The proposed amendments are intended to prevent a project from receiving brownfield or grayfield redevelopment tax credits more than once for the same site. These amendments define the conditions under which a project is deemed to be receiving tax credits for the same site more than once and thus deemed ineligible to receive tax credits.

Interested persons may submit written or oral comments on the proposed amendments on or before 4:30 p.m. on May 7, 2013. Comments may be submitted to Matt Rasmussen, Iowa Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3126; e-mail [matt.rasmussen@iowa.gov](mailto:matt.rasmussen@iowa.gov).

The Economic Development Authority Board approved these amendments at a Board meeting on March 22, 2013.

These amendments do not have any fiscal impact to the state of Iowa.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 15.291, 15.292, 15.293A and 15.293B.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions of “Affiliate” and “Previously remediated or redeveloped” in rule **261—65.2(15)**:

“*Affiliate*” or “*affiliated entity*” means any entity to which one or more of the following applies:

1. The entity directly, indirectly, or constructively controls another entity.
2. The entity is directly, indirectly or constructively controlled by another entity.
3. The entity is subject to the control of a common entity. A common entity is one which owns directly or individually more than 10 percent of the voting securities of the entity.

“*Previously remediated or redeveloped*” means any prior remediation or redevelopment at a brownfield or grayfield site, including development for which an application for or an award of brownfield or grayfield tax credits has been made.

ITEM 2. Amend rule **261—65.2(15)**, definition of “Qualifying redevelopment project,” as follows:

“*Qualifying redevelopment project*” means a brownfield or grayfield site being redeveloped or improved by the property owner. “Qualifying redevelopment project” does not include a previously remediated or redeveloped brownfield or grayfield site.

ITEM 3. Adopt the following **new** subrule 65.3(3):

**65.3(3) *Phased projects ineligible for tax credits.*** Tax credits for brownfield and grayfield redevelopment are only available for qualifying redevelopment projects. Because a qualifying redevelopment project does not include a previously remediated or redeveloped site, a project for subsequent redevelopment at the same site for which tax credits have already been awarded is not eligible for additional tax credits on redevelopment at that site. The authority and the council will determine whether a project constitutes subsequent redevelopment at the same site by considering the following factors:

- a.* Whether the redevelopment described in multiple proposed projects is planned for a single parcel.
- b.* Whether the redevelopment described in multiple proposed projects is planned for adjacent or contiguous parcels or parcels in very close physical proximity.
- c.* Whether all involved parcels are owned by the same entity, different entities, or affiliated entities.
- d.* Whether a proposed project is the result of the same planning process as another project.
- e.* Whether the proposed projects are being developed by the same entity, different entities, or affiliated entities.
- f.* Whether the development of one proposed project reflects a temporal connection to another proposed project.